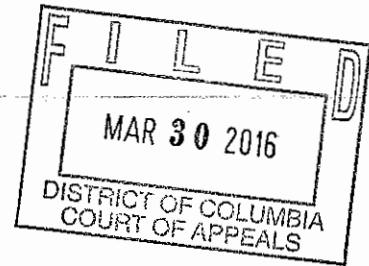


March 30, 2016



Julio Castillo, Clerk
Court of Appeals for the District of Columbia
430 E. Street NW
Washington D.C. 20001

Supplemental Comments on Pre-Graduation Bar Exam
Amendments to Rule 46

Dear Mr. Castillo:

On December 21, 2015, I submitted comments supporting two proposed Rule changes. The first, which the Court has now approved, adopts the Uniform Bar Exam as the bar exam to be given in the District of Columbia effective with the July 2016 exam.

The second possible rule change proposed to allow law students to take the UBE while in law school, provided that they expect to graduate within 190 days of taking the exam. That second proposal was not adopted, but an additional comment period was allowed through March 31, 2016. As of March 30, 2016, only one additional comment was filed, that by Marin R. Scordato, the Associate Dean for Academic Affairs at Catholic Law School. These comments are submitted in response to those submitted by Dean Scordato.

I do not disagree with Dean Scordato that the pre-graduation bar exam is not for every student. I also agree that there might be serious problems if students could take the exam in February of their third year, while continuing their full course load and their extra-curricular activities such as journals and competitions.

Fortunately, the either/or option is not the only one. I believe that all law schools have the authority to preclude students from taking a pre-graduation bar exam unless students can demonstrate that they will be prepared to take the exam and complete their coursework. To eliminate any doubt on that score, the Court should make that authority express if it adopts this rule.

At George Washington, we have been considering what to do if the pre-graduation bar exam were authorized and have developed a number of means to assure that students who take the bar exam in February are in a position both to complete their studies and to pass the bar exam. Some of the measures that we seem likely to adopt include (a) mandatory counseling of all students who seek to take the bar exam pre-graduation; (b) limits on the number of remaining credits in the final semester (such as 6 or 8); (c) not allowing students to enroll in regular law school courses while studying for the bar exam; (d) barring students from working at other jobs (or significantly limiting their hours) or pursuing activities such as journals and competitions while studying for the bar exam; and (e) creating special courses and expanded use of outside

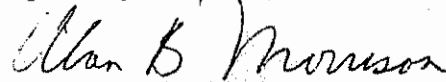
placements to provide credits and meaningful course work during the period between the bar exam and graduation.

Moreover, Dean Scordato's comments are directed primarily at problems for students who would take the bar exam in February of their third year, but the proposed rule is not so limited. As I expressed in my prior comments, two other sets of students would benefit from being allowed to take a pre-graduation bar exam, and those students do not face the problems identified in the Dean's letter. First, there are a handful of students who, for one reason or another do not graduate in May, but finish their work and graduate in August. Second, there are students who graduate in January and who might otherwise spend their pre-graduation summer working in a legal job, but could choose to take the bar exam in July so that they would be admitted in February (immediately following their graduation), instead of the following November (if they took the bar exam the July after graduation). We would also require some counseling and perhaps some other rules for both groups, but the potential for serious problems in both categories is quite small. Accordingly, there is no reason why students who will graduate in August or January should not be able to take the July bar before they graduate, again with the clarification that their law school may set reasonable conditions on allowing them to take the exam prior to graduation.

* * *

For these reasons, I urge the Court of Appeals to adopt the proposed amendment to Rule 46 to allow students to take the bar exam prior to graduation, subject to the approval of their law school.

Respectfully Submitted,

A handwritten signature in cursive script, reading "Alan B. Morrison". The signature is written in dark ink and is positioned above a horizontal line.

Alan B. Morrison,
Lerner Family Associate Dean for
Public Interest & Public Service Law

CC: Dean Scordato



THE CATHOLIC UNIVERSITY OF AMERICA

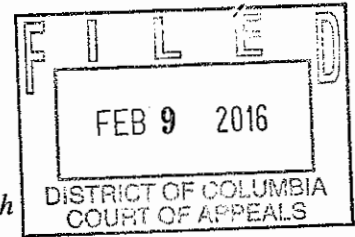
Columbus School of Law

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February 8, 2016

Julio A. Castillo, Clerk of the Court
District of Columbia Court of Appeals
430 E Street, N.W.
Washington, DC 20001

Dear Mr. Castillo:

I am the Associate Dean for Academic Affairs and Research at the Columbus School of Law at The Catholic University of America. I write to offer just a few comments on the pending proposal to permit students before their graduation from law school to sit for the DC bar examination. I strongly urge the Court not to adopt the proposal. I offer, from my particular perspective, two primary reasons in support of this position:

1. It would result in no less than a massive distraction and disruption of a law student's final year in school. All of the fall semester preceding the administration of the exam in February would inevitably be occupied by intense preparation for the exam, as would the first half of the spring semester. Moreover, there would be little energy and no enthusiasm for students who took the exam to do much of value in the eight weeks or so following the exam and remaining until their graduation.

One might think that I am exaggerating with respect to the effect of such a change on the fall semester of law school, assuming instead that a student should require no more than January and February to prepare for the bar examination, but I suggest to you that in short order, it will not work that way. Under current circumstances in legal education, passing the bar examination on the first attempt is an important priority for both individual students and for law schools themselves. Intense pressure will be generated by the natural self-interest of students, and by the institutional interests of each law school to maximize their bar pass rate on the DC bar exam, to convert the fall semester of the final year in law school to not much more than an intensive preparation for the DC bar exam. Before long, that pressure will have its way. At best, the pressure will warp the curriculum offered in the fall semester of the final year by law schools with meaningful numbers of students who intend to take the DC bar exam before their graduation.

There is not even speculation, or dispute, that allowing students to take the bar examination in late February of their final year will thoroughly disrupt and displace for them the usual final spring semester of law school. Adequate preparation to pass the bar examination for the great majority of our students means essentially full-time devotion to that pursuit over a period of months just preceding the administration of the exam. It is utterly incompatible with maintaining a normal semester course load in a normal program of legal education.

There are those who suggest that legal education might be improved if a student could routinely earn a J.D. degree in two full years of attending law school, and they may well have valuable points to make in this regard. But until such time as that comes to pass, it is, I suggest, inappropriate and unwise to so completely disrupt the normal final year in law school in this way.

2. Except in unusual circumstances, students at a given law school do not overwhelmingly take the bar examination of any particular jurisdiction. This is especially true for law schools located in DC as we all draw students from all over the country, indeed all over the world, who understandably wish to study law in the capital city of the United States of America. Should DC permit students to sit for its bar examination during their final year in law school, and do so not in unison with the other jurisdictions in the country, and most especially the jurisdictions that are geographically proximate to DC, then we in law schools would face a situation in which some percentage of our final year students, but not nearly all or perhaps even a majority, would be facing a fundamentally different experience in their final year than the rest of their peers and colleagues.

This situation, caused solely by the early availability of only the DC bar examination and unavoidable by law schools, would cause a number of predictable negative consequences:

a. As described above, those final year students who take the DC bar examination before graduation would not in nearly the same way as their peers benefit from the many law school educational activities that tend to cluster in the final year: specialized doctrinal courses in their area of intended practice; legal clinics (that tend to initiate and encourage in young attorneys the habit of pro bono work); externships (that aid them in securing employment); editorships on academic journals like law review; participation in moot court competitions; etc. One could expect this group of students to enter the profession as novice attorneys less well prepared than their peers, a likely competitive disadvantage at a critical time in their careers.

b. Because many of the typical third-year educational activities identified in (a) above require a critical mass of students to be effective, final year law students other than those who take the DC bar exam before graduation will also be adversely affected should the proposal be adopted. They will not have the advantage of the active participation of many of

their colleagues in these various final year activities that, by their nature, are designed to move law students from the more individual study of legal doctrine in the first two years of law school toward an approach to law and legal practice that involves greater group activity and that more clearly emphasizes teamwork and leadership. The same diminished participation that will negatively affect courses and quasi-curricular activities in the final year will also negatively affect extra-curricular activities, robbing many student organizations and charities of their senior leadership.

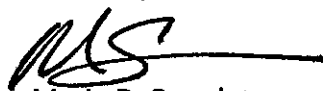
c. To the extent that law schools respond to the disruption to the final year of law school that will be caused by adoption of the proposal by creating for those students who prepare for and take the DC bar exam in their final year different curricular tracks, and different versions of standard final year courses, adoption of the proposal will cause the cost of legal education for all students who attend schools in the DC area to increase. I would think that at this time especially the Court would seek to avoid adopting proposals that carry the risk of increasing the cost of law school attendance for students.

d. Creating a circumstance during the final year of law school, especially at those located in DC, in which some significant number of students are having a very different experience than the rest of their peers would be destructive to the comradeship that typically builds among a law school class during their years in school and to the personal bonding and professional network development that typically cements in the final year. This dynamic would be a particular detriment to just those students who respond to the opportunity to take the bar examination in DC early offered by the proposal.

I hope that I have effectively conveyed to you the very serious and deleterious consequences for the nature and quality of legal education experienced in their final year of law school by students who intend to take the DC bar examination before their graduation, and to students in law schools located in DC generally, should the pending proposal be adopted. I urge you not to adopt it.

Thank you for this opportunity. Please let me know if I can provide you with any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read 'MS' followed by a long horizontal stroke.

Marin R. Scordato

Professor of Law

Associate Dean for Academic Affairs and Research